IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.18123 of 2004

Dated: 12-10-2007

Between:

1. Gram Panchayath, Poranki,
   rep. by its Executive Officer & Panchayath Secretary,
   Mr. M. Nageshwar Rao, s/o M. Radha Krishna Murthy,
   Poranki (village), Penamalur Mandal,
   Krishna District and another.

... Petitioners

and

1. The Government of Andhra Pradesh,
   rep. by its Principal Secretary to Government,
   Fisheries Department, Secretariat,
   Hyderabad and 2 others.

... Respondents

ORDER:

Petitioners question the G.O.Ms.No.34, Animal Husbandry, Dairy Development and Fisheries (F-II) Department, dated 18-08-2004, insofar as it relates to Sl.No.2 i.e. fish seed farm of Poranki village, whereby the Principal Secretary to the Animal Husbandry, Dairy Development and Fisheries (F-II) Department, directed the Commissioner of Fisheries to dispose of some uneconomic fish seed farms in favour of highest bidders on permanent basis, so as to avoid unauthorized occupation by the local people.

2. Heard learned counsel for the parties.

3. In this context, the judgment of the Supreme Court reported in

HINCH LAL TIWARI v. KAMALA DEVI AND OTHERS[1] and the judgment of a Division Bench of this Court in **KATURI MAHALAXMAMMA v. SPECIAL COMMISSIONER OF LAND REVENUE**[2] are relevant.

In ***Hinch Lal Tiwari's case (1 supra),*** Their Lordships held as follows-

> "13. It is important to notice that the material resources of the community like forests, tanks, ponds, hillock, mountain etc. are nature's bounty. They maintain delicate ecological balance. They need to be protected for a proper and healthy environment which enables people to enjoy a quality life which is the essence of the guaranteed right under Article 21 of the Constitution. The Government, including the Revenue Authorities i.e. Respondents 11 to 13, having noticed that a pond is falling in disuse, should have bestowed their attention to develop the same which would, on one hand, have prevented ecological disaster and on the other provided better environment for the benefit of the public at large. Such vigil is the best protection against knavish attempts to see allotment in non-abadi sites."

4. In ***Katuri Mahalaxmamma's case (2 supra)*** a Division Bench of this Court held as follows---

> "Porambokes are primarily tank beds. Such tank beds are required to be maintained in villages for various purposes including for maintenance of a clean environment. Kunta poramboke is a water tank. Such water bodies are required to be maintained having regard to the doctrine of public trust which envisages that the lands and water bodies which vest in the sovereign State should be preserved and utilized for the utmost benefit of public at large. All such water bodies vest in public authority. "

5. From the above, this Court has no hesitation to come to the conclusion that such a step requiring the authorities to dispose of the fish seed farms on the ground of unauthorized occupation is illegal. In fact, sovereign State has a duty to protect and preserve lands and water bodies for the benefit of public at large. But the G.O. appears to be contrary to the doctrine of public trust and hence, this Court is of the view that the said action trying to dispose of the fish seed farms to the highest bidders on permanent basis can definitely be said to be arbitrary.

6. Accordingly, the writ petition is allowed and G.O.Ms.No.34

dated 18-08-2004 insofar as it relates to Sl.No.2 i.e. Poranki Gram Panchayathi is concerned, is hereby set aside. No costs.

JUSTICE GOPALAKRISHNA TAMADA

Dt.12-10-2007
GLV

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[1] (2001) 6 Supreme Court Cases 496
[2] 2002 Suppl.(1) ALD 273 (DB)